

ORDINANCE NO. 2020-07

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING AND RENAMING SECTION 2-62, "COLLECTION; LATE PAYMENT CHARGE, SPECIAL ASSESSMENT LIEN FOR DELINQUENT SOLID WASTE AND RECYCLING SERVICE FEES," OF THE VILLAGE CODE OF ORDINANCES RELATING TO THE VILLAGE'S SOLID WASTE AND RECYCLING FEES AND COLLECTION METHODS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in Chapter 166 – Municipalities, Florida Statutes, the Florida State Legislature conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, on April 11, 1995, the Village of Key Biscayne (the "Village") adopted Ordinance 95-4, authorizing the Village to impose fees for the collection of solid waste and the provision of recycling services, which ordinance is codified in Section 2-61 of the Village's Code of Ordinances; and

WHEREAS, the Village currently collects the solid waste and recycling fees utilizing a direct billing system; and

WHEREAS, the Village Council desires to have the option to use the uniform method to levy, collect, and enforce non-ad valorem assessments as provided for in Section 197.3632, Florida Statutes (the "Uniform Method") to collect the solid waste and recycling special assessment; and

WHEREAS, the Village Council has determined that it is in the public interest to adopt regulations that incorporate use of the Uniform Method in collection of solid waste and recycling fees; and

WHEREAS, the Village Council finds that this Ordinance is in the best interest of the Village's residents.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:¹

Section 1. **Recitals.** The above-stated recitals are true and correct and are incorporated herein by this reference.

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with highlighted ~~double-strikethrough~~ and double underline.

Section 2. Amending Section 2-62 of the Village Code. That Section 2-62, "Late payment charge, special assessment lien for delinquent solid waste and recycling service fees," of the Code of Key Biscayne, Florida is hereby amended to read as follows:

Sec. 2-62. – **Collection:** Late payment charge, special assessment lien for delinquent solid waste and recycling service fees.

- (a) Fees imposed by the Village Council for the collection of solid waste and for the providing of recycling services shall be due and payable not later than the due date indicated upon such bill of the Village. Such due date shall be not later than the 15th day of February for service provided by the Village in the immediately preceding annual period of October 1 of the prior year to September 30 of the current year.
- (b) If such charges are not fully paid by the customer on or before the past due date, a late charge of five percent shall be added to the bill and imposed by the Village. Unpaid balances of customers for such charges and late charges shall be subject to an interest charge at the rate of one-half of one percent per month in accordance with the provisions of paragraphs (d) and (g) below. Imposition of said interest charge shall commence for any delinquency existing 30 days after the past due date and continue to accrue until all charges are paid. All accrued late charges and interest charges outstanding for each unpaid account as of the date of the passage and adoption of this amendment to Section 2-62(b) shall be deemed waived, null, and void if and only if the entire unpaid account balance (excluding the late and interest charges) is paid in full no later than December 31, 2009.
- (c) Solid waste and recycling charges and late charges, together with any interest charges, shall be debts due and owing to the Village and such debts shall be recoverable by the Village or its assignee, in any court of competent jurisdiction.
- (d) All charges, late charges and interest accruing thereupon for service rendered by the Village to any property which remain unpaid 30 days after the past due date of the charges shall become subject to imposition of a lien against and upon the real property to which such service has been furnished to the same extent and character as a lien for a special assessment. An administrative fee of ten percent of the unpaid service charges shall be imposed upon any delinquent account for which a lien is filed. Once such lien is filed by the Village in the Official Records, and until fully paid and discharged, said charges, late charges, administrative fee and interest accrued thereupon shall be, remain and constitute a special assessment lien equal in rank and dignity with the liens of all Village ad valorem taxes and superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property served, from and after the date said charges become a lien as set forth in this paragraph. Said liens may be enforced and satisfied by the Village, pursuant to Chapter 173, Florida Statutes, as amended from time to time or by any other method permitted by law. The lien provided for herein shall not be deemed to be in lieu of any other legal remedies for payment available to the Village.
- (e) Within ten days after a lien is filed against a property, the Village Clerk shall send by U.S. Mail to the property owner of record a notice of lien, informing the property owner of the existence of the lien, the amount of the lien and the service provided by Village for which such lien was imposed. Within 30 days after notice of lien is sent by the Village Clerk to the property owner, the property owner may file an appeal to the Village Manager to contest the

existence of the lien or the amount of such lien. The Village Attorney shall prepare a form to be utilized for such appeal, which shall be retained on file in the Office of the Village Clerk. In order to be entitled to be heard by the Village Manager, the notice of appeal of lien assessment must be filed with the Village Manager within 30 days of the date of the Village's mailing of the notice of lien. Failure to appeal within such 30-day period will be considered an abandonment of any right to appeal or contest the lien.

- (f) Upon timely receipt of a notice of lien appeal, the Village Manager shall be empowered to adjust, settle or compromise any appeal on behalf of the Village if he shall find any error in the bill rendered for services or the lien imposed.
- (g) All liens shall be effective upon filing in the Official Records of Dade County and shall become due, payable and subject to suit for enforcement 30 days after the mailing of the notice of lien by the Village Clerk, except in such cases where an appeal is filed pursuant to paragraph (f) in which case the lien is due, payable and subject to enforcement 30 days from the decision of the Village Manager.
- (h) Liens may be discharged and satisfied by payment to the Village of the aggregate amounts specified in the notice of lien, together with interest accrued thereon, and all filing and recording fees arising from the notice of lien and the satisfaction of lien. When any such lien has been fully paid and/or discharged, the Village Clerk shall cause evidence of the satisfaction and discharge of such lien to be filed with the Office of the Clerk of the Circuit Court of Dade County, Florida, in the Official Records of Dade County, Florida.
- (i) Alternative collection method. Notwithstanding the foregoing, the Village may use the non-ad valorem levy, collection and enforcement method as provided for in Chapter 197, Florida Statutes for fees assessed pursuant to this Division.

Section 3. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Codification. That it is the intention of the Village Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Village's Code of Ordinances, and that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word.

Section 5. Conflicts. That all ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 6. Effective Date. That this Ordinance shall become effective immediately upon final adoption on second reading.

PASSED on first reading on the 17th day of November, 2020.

PASSED AND ADOPTED on second reading on the 8th day of December, 2020.


MICHAEL W. DAVEY
MAYOR

ATTEST:


JOCELYN B. KOCH
VILLAGE CLERK



APPROVED AS TO FORM AND LEGALITY:


WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.
VILLAGE ATTORNEY

MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
Miami, Miami-Dade County, Florida

STATE OF FLORIDA COUNTY OF MIAMI-DADE:

Before the undersigned authority personally appeared GUILLERMO GARCIA, who on oath says that he or she is the DIRECTOR OF OPERATIONS, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

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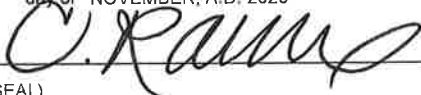
in the XXXX Court,
was published in said newspaper in the issues of

11/27/2020

Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami, in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

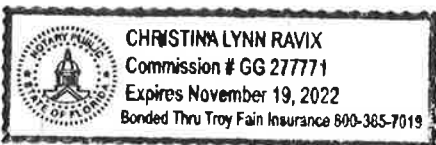


Sworn to and subscribed before me this
27 day of NOVEMBER, A.D. 2020



(SEAL)

GUILLERMO GARCIA personally known to me



VILLAGE OF KEY BISCAYNE OFFICE OF THE VILLAGE CLERK PUBLIC NOTICE

Notice is hereby given that the following ordinances will be considered on Second Reading by the Village Council of the Village of Key Biscayne at a meeting to be held on Tuesday, December 8, 2020 at 6:00 p.m., in the Council Chamber, located at 560 Crandon Boulevard, Key Biscayne, Florida.

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING AND RENAMING SECTION 2-62, "COLLECTION; LATE PAYMENT CHARGE, SPECIAL ASSESSMENT LIEN FOR DELINQUENT SOLID WASTE AND RECYCLING SERVICE FEES," OF THE VILLAGE CODE OF ORDINANCES RELATING TO THE VILLAGE'S SOLID WASTE AND RECYCLING FEES AND COLLECTION METHODS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING SECTION 29-5, "COLLECTION OF STORMWATER UTILITY FEE; LIENS" OF THE VILLAGE CODE OF ORDINANCES RELATING TO THE VILLAGE'S STORMWATER UTILITY AND COLLECTION METHODS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

The proposed ordinances may be inspected by the public at the Office of the Village Clerk. **Any person wishing to address the Village Council on any item at this Public Hearing may call (305) 365-7569, Zoom Meeting ID: 231 627 8415 and be heard with respect to the proposed Ordinances.**

In accordance with the Americans With Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this proceeding because of that disability should contact the Office of the Village Clerk, 88 West McIntyre Street, Suite 220, Key Biscayne, Florida 33149, telephone number (305) 365-5506, not later than two business days prior to such proceeding.

Should any person desire to appeal any decision of the Village Council with respect to any matter to be considered at this meeting, that person shall insure that a verbatim record of the proceedings is made including all testimony and evidence upon which any appeal may be based (F.S. 286.0105).

Comments of any interested party relative to this matter may be submitted in writing via email to publiccomments@keybiscayne.fl.gov.

11/27

Jocelyn B. Koch
Village Clerk
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